

87

**Notice of Allowability**

Application No.

10/840,133

Examiner

Thong Q. Nguyen

Applicant(s)

WEISS ET AL.

Art Unit

2872

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 1/19/06.
2. ☒ The allowed claim(s) is/are 1-11.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 9/30/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

THONG NGUYEN  
PRIMARY EXAMINER

## **DETAILED ACTION**

### ***Response to Amendment***

1. The present Office action is made in response to the reply filed on 1/19/06. It is noted that in the reply, applicant has made changes to the specification, the drawings and the claims. Regarding to the claims, applicant has amended claims 1 and 8-11. There is not any claim being canceled or added in the reply of 1/19/06.

### ***Information Disclosure Statement***

2. The Germany reference number 3542218 listed in the information disclosure statement filed on 9/30/04 has been considered and a copy of the form is attached with this Office action. The reference 510329 is lined-through because it has been considered and initialed by the Examiner as shown in the copy of the form mailed to applicant on 9/16/05.

3. Regarding to the applicant's statement that the Examiner has not considered the reference Nos. 3214268 and 3542218 labeled as AJ and AK, respectively in the form PTO-1449 filed on 5/6/04, the Examiner respectively disagrees because both the mentioned references have been considered and a copy of the form contained the Examiner's initials was mailed to the applicant in the Office action of 9/16/05.

### ***Drawings***

4. The drawings contained corrected figures 1-2 was received on 1/19/06. These drawings are approved by the Examiner.

***Specification***

5. The lengthy specification which is amended by the amendment of 1/19/06 has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Allowable Subject Matter***

6. Claims 1-11 are allowed.

7. The following is an examiner's statement of reasons for allowance:

The microscope as defined in independent claim 1 and the method for providing overlay images as defined in the independent claim 8 are patentable with respect to the cited art, in particular, the reference EP 510 329 and the Japanese reference No. 2001-91822 by the limitations related to the arrangement of the analyzer and the wedge plates behind the analyzer in an imaging direction to compensate to zero for the beam deflection caused by the analyzer. It is noted that while the use of a set of wedge plates behind an analyzer is disclosed in the Japanese reference No. 2001-91822; however, the reference does not disclose the structure of the analyzer and thus it is unclear whether the light passing through the analyzer of the Japanese reference is deflected. While the use of the wedge plates after the analyzer as provided by the mentioned Japanese reference is for the purpose of correction the change in path length; however, the mentioned Japanese reference also does not disclose that the movement of the

wedge plates will cancel the light deflection caused by the analyzer to a value of zero as claimed.

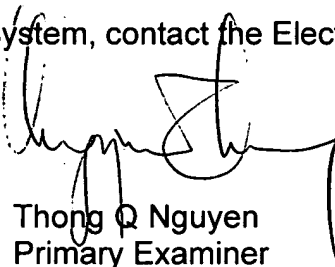
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen  
Primary Examiner  
Art Unit 2872



# Replacement Sheet

1/1

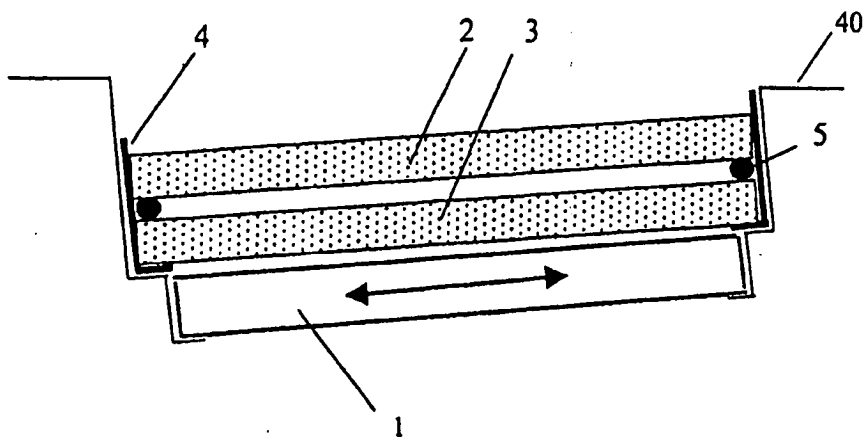


Fig. 1

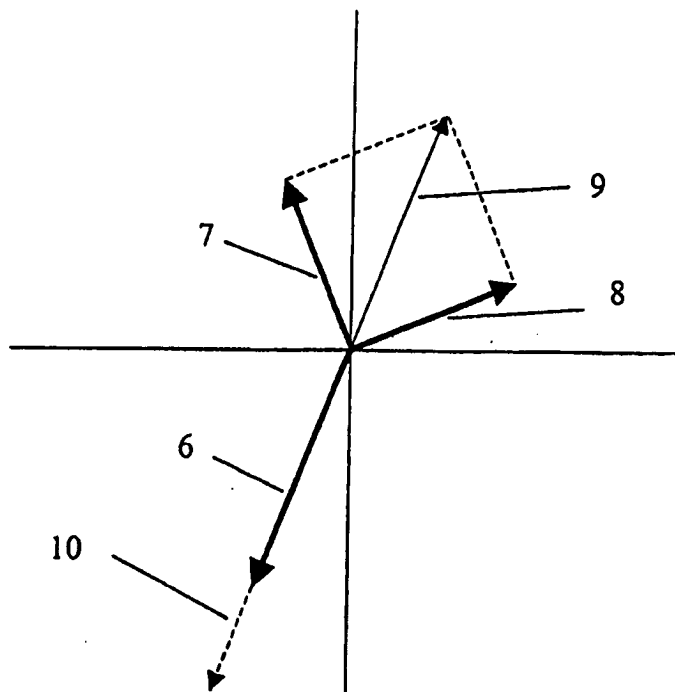


Fig. 2